



DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

SAIG-ZA

9 January 2009

MEMORANDUM FOR ALL INSPECTORS GENERAL

SUBJECT: Change to Inspectors General Serving on Courts-Martial Panels in Army Regulation 20-1, Inspector General Activities and Procedures (Policy Change Number 3)

1. Effectively immediately, the duty restrictions outlined in paragraph 2-6 do not include Inspectors General (IGs) serving on courts-martial panels. This policy change allows general and special courts-martial convening authorities (CAs) to select IGs to serve as courts-martial panel members.

2. On 7 July 2008, the Court of Appeals for the Armed Forces (CAAF) issued a decision in United States v. Bartlett that voided service restrictions precluding IGs and other special branch Soldiers (such as chaplains and doctors) from serving as courts-martial members. CAAF ruled that under Article 25, Uniform Code of Military Justice (UCMJ), the Army could not restrict courts-martial CAs from selecting IGs for duty as courts-martial members. Article 25 states that convening authorities must select the best qualified courts-martial members based on age, education, training, experience, length of service, and judicial temperament. The court ruled that the Article 25 criteria could not be modified by excluding certain duty positions. CAAF did not say CAs should or should not select IGs as courts-martial members but that the Army cannot limit a CA's discretion under Article 25 by precluding CAs from selecting certain special branch Soldiers like IGs as courts-martial members.

3. The changes to subparagraph 2-6 appear below in bold font.

2-6. Inspector general duty restrictions

a. Detailed IGs, assistant IGs, temporary assistant IGs, and acting IGs will not --
(2) Be appointed as investigating officers under UCMJ, Art. 32 and Article 138, AR 15-6, or any other regulation providing for the appointment of investigating officers or members of administrative separation boards. However, IGs will serve as members of a courts-martial panel if directed to do so by the general or special courts-martial convening authority. In addition, TIG, DTIG, or the DAIG executive officer may appoint IGs within the U.S. Army Inspector General Agency as investigating officers on matters within DAIG in accordance with AR 15-6 or for financial liability investigations of property loss in accordance with AR 735-5. In this case, the officer follows the procedures prescribed in the applicable regulation to perform the investigation or financial liability investigation of property loss and not IG procedures as outlined in this regulation.

SAIG-ZA

SUBJECT: Revised Investigation Reporting Requirements and Procedures in Army Regulation 20-1, Inspector General Activities and Procedures (Policy Change Number 3)

4. The point of contact for this policy change is Mr. Stephen M. Rusiecki, Dean of Academics and Deputy Commandant, U.S. Army Inspector General School, DSN 655-3918 / 3900 or commercial (703) 805-3918, stephen.rusiecki@ignet.army.mil.

Droit et Avant!

A handwritten signature in black ink, appearing to read "R. Steven Whitcomb". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

R. STEVEN WHITCOMB
Lieutenant General, USA
The Inspector General